

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT P. LARGESS

Plaintiff,

vs.

Case No.

04 - 10921 JLT

SUPREME JUDICIAL COURT FOR THE
STATE OF MASSACHUSETTS;
CHIEF JUSTICE MARGARET MARSHALL,
JUSTICE ROBERT J. CORDY, JUSTICE
JUDITH A. COWIN, JUSTICE JOHN M.
GREANEY, JUSTICE RODERICK L. IRELAND,
JUSTICE MARTHA B. SOSMAN, JUSTICE
FRANCIS X. SPINA, in their official capacities
as Justices of the Supreme Judicial Court of
Massachusetts; MASSACHUSETTS
DEPARTMENT OF PUBLIC HEALTH;
CHRISTINE C. FERGUSON, in her official
capacity as Commissioner of the Massachusetts
Department of Public Health; JUDY A.
McCARTHY, in her official capacity as City
Registrar for the City of Boston; CITY AND
TOWN CLERKS 1-350,

Defendants.

AFFIDAVIT OF JOEL L. OSTER

I, JOEL L. OSTER, being duly sworn, depose under penalty of perjury and state:

1. I am a resident of Seminole County, Florida, and reside at 176 Hanging Moss Drive,
Oviedo, Florida 32765

2. I am a licensed attorney, licensed in the state and federal courts in Kansas, KS bar #
18543, Missouri, MO bar # 50513, and Florida, Bar No. 0659746.

3. On the afternoon of May 7, 2004, I faxed a letter to the following:

The Massachusetts Supreme Judicial Court
Honorable Chief Justice Margaret H. Marshall
Honorable John M. Greaney
Honorable Francis X. Spina
Honorable Martha B. Sosman
Honorable Roderick L. Ireland
Honorable Judith A. Cowin
Honorable Robert J. Cordy
Judy McCarthy, Boston Massachusetts Registrar
Massachusetts Department of Health Commissioner Christine C. Ferguson
Massachusetts Department of Public Health

and informed them that we would be filing a Motion for a Temporary Restraining Order regarding the above captioned case in the United States District Court, District of Massachusetts, 1 Courthouse Way, Boston, Massachusetts 02210, to enjoin the enforcement of the Massachusetts Supreme Judicial Court opinion in *Goodridge v. Department of Public Health*, 440 Mass. 309 (2003) which amended Massachusetts law defining marriage as between one man and one woman, and that we would be requesting an immediate hearing for an Order to Show Cause why a Temporary Restraining Order should not be entered. (A copy of the letter, along with the fax confirmation sheets are attached to this Affidavit as Exhibit A.)

4. On the afternoon of May 7, 2004, I spoke with Neal Quenzer, the Chief Staff Counsel for the Supreme Judicial Court of Massachusetts, and informed him that we would be seeking a TRO on Monday morning, May 10, 2004, in the Federal Court. In addition, I spoke with the offices of the Registrar of the City of Boston Massachusetts, and the Massachusetts Department of Public Health, informing them that we would be seeking a TRO on Monday morning, May 10, 2004.

5. On the afternoon of May 7, 2004, I received a phone call from Peter Sacks, an attorney from the Office of the Attorney General for Massachusetts. He informed me that he would be representing the Massachusetts Department of Public Health in this lawsuit, and that he was

informed that we would be seeking a TRO on Monday, May 10, 2004, in Federal Court.

6. On the afternoon of May 8, 2004, I faxed a copy of the Complaint, the Motion for Temporary Restraining Order and the Memorandum in Support of the Motion for a Temporary Restraining Order to the following:

The Massachusetts Supreme Judicial Court
Honorable Chief Justice Margaret H. Marshall
Honorable John M. Greaney
Honorable Francis X. Spina
Honorable Martha B. Sosman
Honorable Roderick L. Ireland
Honorable Judith A. Cowin
Honorable Robert J. Cordy
Neal Quenzer
One Beacon Street, 3rd Floor
Boston, MA 02108
Fax (617) 557-1053

Judy McCarthy
Office of the City Registrar
One City Hall Plaza, Room 213
Boston, MA 02201
Fax (617) 635-3775

Commissioner Christine C. Ferguson
Massachusetts Department of Public Health
250 Washington Street
Boston, MA 02108
Fax (617) 624-5234

Peter Sacks
Office of the Attorney General
One Ashburton Place, Room 2019
Boston, MA 02108
Fax (617) 727-5785

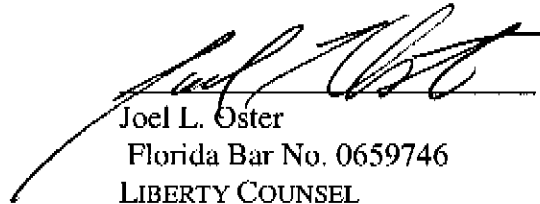
(The fax confirmation sheets are attached as Exhibit B.)

Further, Affiant Sayeth Naught.

Under penalty of perjury, I declare that I have read the foregoing, that the facts alleged are true, to the best of my knowledge and belief.

Dated this 8th day of May, 2004.

Respectfully Submitted,

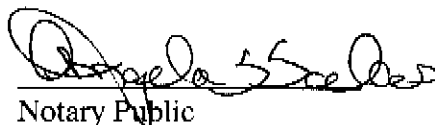


Joel L. Oster
Florida Bar No. 0659746
LIBERTY COUNSEL
210 East Palmetto Avenue
Longwood, FL 32750
Telephone: (407) 875-2100
Telefacsimile: (407) 875-0770
Attorney for Plaintiff

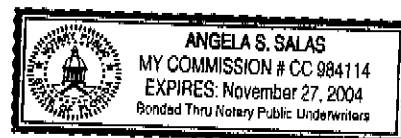
STATE OF FLORIDA

COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 8th day of May, 2004, by Joel Oster, who is personally known to me or who has produced identification and who took an oath/affirmed.


Notary Public

My Commission expires:



Liberty Counsel

210 East Palmetto Avenue
Longwood, Florida 32750
(407) 875-2100 Telephone

<http://www.lc.org>
liberty@lc.org
(407) 875-0770 Fax

May 7, 2004

The Massachusetts Supreme Judicial Court
Honorable Chief Justice Margaret H. Marshall
Honorable John M. Greaney
Honorable Francis X. Spina
Honorable Martha B. Sosman
Honorable Roderick L. Ireland
Honorable Judith A. Cowin
Honorable Robert J. Cordy
One Beacon Street, 3rd Floor
Boston, Massachusetts 02108
Fax (617) 557-1053

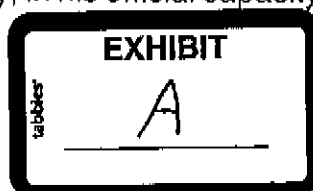
Judy McCarthy
Boston Massachusetts Registrar
Room 213
1 City Hall Plaza
Boston, Massachusetts 02201
Fax (617) 635-3775

Commissioner Christine C. Ferguson
Massachusetts Department of Public Health
250 Washington Street
Boston, Massachusetts 02108
Fax (617) 624-5234

Re: Filing TRO Monday Morning in Federal Court

To whom it may concern:

I am writing to inform you that we will seek an immediate TRO on Monday morning, May 10, 2004 in the United States District Court, District of Massachusetts, 1 Courthouse Way, Boston, Massachusetts 02210, to enjoin the enforcement of the Massachusetts Supreme Judicial Court opinion in *Goodridge v. Department of Public Health*, 440 Mass. 309 (2003) which amended Massachusetts law defining marriage as between one man and one woman. Plaintiff is seeking an injunction against the Massachusetts Supreme Judicial Court, the Honorable Chief Justice Margaret H. Marshall, in her official capacity, the Honorable John M. Greaney, in his official capacity, the Honorable Francis X. Spina, in his

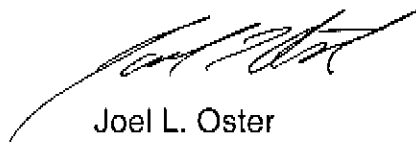


official capacity, the Honorable Martha B. Sosman, in her official capacity, the Honorable Roderick L. Ireland, in his official capacity, the Honorable Judith A. Cowin, in her official capacity, the Honorable Robert J. Cordy, in his official capacity, the Massachusetts Department of Public Health, and the Massachusetts Department of Public Health Commissioner Christine C. Ferguson, in her official capacity.

We will ask for an immediate hearing for an Order to Show Cause why a Temporary Restraining Order should not be entered. We will send you a copy of the Complaint, the Motion for a TRO, and the Memorandum in Support of a Motion for TRO as soon as it is completed, most likely Sunday afternoon.

If you have any questions, please give me a call at the above listed number, or you can reach any of the following attorneys on their cell phones: Mathew Staver (407) 766-0928, Erik Stanley (407) 376-9623, Joel Oster (407) 733-1776, or Rena Lindevaldsen (407) 902-5942.

Sincerely,

A handwritten signature in black ink, appearing to read "Joel L. Oster", is written over a horizontal line.

Joel L. Oster

JLO:lkc
Enclosure

Liberty Counsel

Post Office Box 540774
Orlando, Florida 32854
(407) 875-2100 Telephone

<http://www.lc.org>
liberty@lc.org
(407) 875-0770 Fax

If there is a problem with transmission or if all pages are not received, please call for retransmission.

TO: Honorable Chief Justice Margaret H. Marshall **FAX #:** 617-557-1053 4-22
Honorables John M. Greaney
Honorables Francis X. Spina
Honorables Martha B. Sosman
Honorables Roderick L. Ireland
Honorables Judith A. Cowin
Honorables Robert J. Cordy
The Massachusetts Supreme Judicial Court

COMPANY: Massachusetts Supreme Judicial Court

FROM: Candy McGuire

DATE: May 07, 2004

RE:

Number of pages including this cover page: 3

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Comments: Letter re TRO to be filed Monday, May 10, 2004

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THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
043	MEMORY TX		5258#4*22#16175571053	03/03	OK

ERRORS

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TO: Honorable Chief Justice Margaret H. Marshall

FAX #: 617-557-1053 4-22

Honorable John M. Greaney

Honorable Francis X. Spina

Honorable Martha B. Sosman

Honorable Roderick L. Ireland

Honorable Judith A. Cowin

Honorable Robert J. Cordy

The Massachusetts Supreme Judicial Court

COMPANY: Massachusetts Supreme Judicial Court

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TO: Judy McCarthy

FAX #: 617-635-3775, 4-22

COMPANY: Boston Massachusetts Registrar

FROM: Candy McGuire

DATE: May 07, 2004

RE: Filing TRO Monday, May 10, 2004 in federal court

Number of pages including this cover page: 3

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Comments: Letter re TRO to be filed Monday, May 10, 2004

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If there is a problem with transmission or if all pages are not received, please call for retransmission.

TO: Comm. Christine C. Ferguson

FAX #: 617-624-5234, 4-22

COMPANY: Mass. Dept. of Public Health

FROM: Candy McGuire

DATE: May 07, 2004

RE: Filing TRO Monday, May 10, 2004 in federal court

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TO: Comm. Christine C. Ferguson

FAX #: 617-624-5234, 4-22

COMPANY: Mass. Dept. of Public Health

FROM: Candy McGuire

DATE: May 07, 2004

RE: Filing TRO Monday, May 10, 2004 in federal court

Number of pages including this cover page: 3

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Honorable Roderick L. Ireland
Honorable Judith A. Cowin
Honorable Robert J. Cordy
Neal Quenzer

FAX #: 617-557-1053, 4-22

COMPANY: Massachusetts Supreme Judicial Court

FROM: Joel Oster

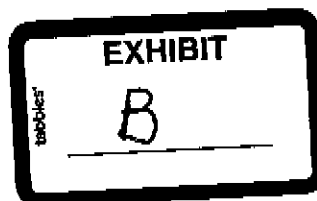
DATE: May 08, 2004

RE: Largess, Robert v. Mass. Sup. Jud. Ct., et al.

Number of pages including this cover page: 36

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Comments: Attached are the Complaint, the Motion for a TRO, and the Memorandum of Law in Support of TRO.



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TO: The Massachusetts Supreme Judicial Court
Honorable Chief Justice Margaret H. Marshall
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Honorable Roderick L. Ireland
Honorable Judith A. Cowin
Honorable Robert J. Cordy
Neal Quenzer

FAX # 617-557-1053 422

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TO: Commissioner Christine C. Ferguson **FAX #:** 617-624-5234, 4-22

COMPANY: Massachusetts Dept. of Public Health

FROM: Joel Oster **DATE:** May 08, 2004

RE: Largess, Robert v. Mass. Sup. Jud. Ct., et al.

Number of pages including this cover page: 36

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FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
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TO: Commissioner Christine C. Ferguson

FAX #: 617-624-5234, 4-22

COMPANY: Massachusetts Dept. of Public Health

FROM: Joel Oster

DATE: May 08, 2004

RE: Largess, Robert v. Mass. Sup. Jud. Ct., et al.

Number of pages including this cover page: 36

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(407) 875-0770 Fax

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TO: Mr. Peter Sacks

FAX #: (617) 727-5785, 4-22

COMPANY: Office of the Attorney General

FROM: Joel Oster

DATE: May 08, 2004

RE: Largess, Robert v. Mass. Sup. Jud. Ct., et al.

Number of pages including this cover page: 36

Liberty Counsel

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TO: Mr. Peter Sacks

FAX #: (617) 727-5785, 4-22

COMPANY: Office of the Attorney General

FROM: Joel Oster

DATE: May 08, 2004

RE: Largess, Robert v. Mass. Sup. Jud. Ct., et al.

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Judy McCarthy

FAX #: 617-635-3775, 4-22

ANY: City of Boston

Joel Oster

DATE: May 08, 2004

Mass, Robert v. Mass. Sup. Jud. Ct., et al.

of pages including this cover page: 36

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TO: Ms. Judy McCarthy

FAX #: 617-635-3775, 4-22

COMPANY: City of Boston

FROM: Joel Oster

DATE: May 08, 2004

RE: Largess, Robert v. Mass. Sup. Jud. Ct., et al.

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